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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/027,460	12/21/2001	Rex D. Davidson	2146.01C	1548

7590

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EXAMINER

SINGH, SUNIL

ART UNIT

PAPER NUMBER

3673

DATE MAILED: 07/21/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/027,460

Applicant(s)

DAVIDSON, REX D.

Examiner

Sunil Singh

Art Unit

3673

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-3, 5, 7 and 8 is/are allowed.
- 6) ☒ Claim(s) 4 and 6 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 4 and 6 are rejected under 35 U.S.C. 103(a) as being unpatentable over Frisbee in view of DePlazes (US 4815542) and "Tractor Types" (Tractors and Their Power Units).

Frisbee discloses a machine (12) comprising a machine frame having a longitudinal reference axis which is fixed in relation to said frame, left and right wheels (this is considered as the wheels that supports member (16) in the rear, note a front wheel is depicted in Figure 2; however, the rear wheels are not shown and this is what the examiner is considering as the left and right wheels for supporting the rear of the frame) supporting a rear of the frame above the floor and oriented to propel the frame across the floor in a direction parallel to said reference axis, left and right arms (20,22) journaled ((24), see Fig. 1) on said frame for independent rotation of said arms about an axis transverse to said reference axis (see col. 3 line 66) and forward of said left and right wheels (see Fig. 2), and a blade assembly having a floor scraping edge, said assembly being pivotally connected to said left and right arms (see Fig. 2) for independent rotation on blade assembly axes transverse to said reference axis with said scraping edge extending transverse to said reference axis. Left and right pistons and cylinders (72,74), pivotally connected at one end to the left and right arms (see Fig.

1) and pivotally connected at their other end to the blade (see Fig. 2). Frisbee discloses the invention substantially as claimed. However, Frisbee is silent about the left and right wheels that support the rear of the frame are drive wheels wherein said drive wheels being in rolling contact with the floor surface. DePlazes teaches that a bulldozer is typically a tractor which is equipped with large drive wheels or tracks (see col. 1 line 12+). "Tractor Types" teaches typical tractors as being either rear wheel drive or four wheel drive (see pages 4-13). It would have been considered obvious to one of ordinary skill in the art to modify Frisbee by substituting the drive wheels as taught by DePlazes for the drive tracks disclosed by Frisbee since such a modification allows for the apparatus to be driven over normal roads and pavements without damaging the roads/pavement. Further, it would have been considered obvious to one of ordinary skill in the art to have the rear wheels be the drive wheels since this is conventional as evidenced by "Tractor Types".

#### ***Allowable Subject Matter***

3. Claims 1-3, 5, 7-8 are allowed.

#### ***Response to Arguments***

4. Applicant's arguments with respect to claims 4,6 have been considered but are moot in view of the new ground(s) of rejection.

#### ***Conclusion***

5. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

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§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

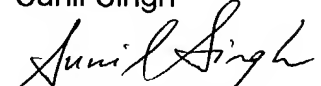
6. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sunil Singh whose telephone number is (703) 308-4024. The examiner can normally be reached on Monday through Friday 8:30 AM-5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Heather Shackelford can be reached on (703) 308-2978. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-2168.

Sunil Singh



Patent Examiner

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SS



7/21/04